

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JASON R. GARDNER, )  
                        )  
Petitioner,         )  
                        )  
v.                    )      Case No. 4:03CV0085 RWS  
                        )  
LARRY ROWLEY,     )  
                        )  
Respondent.        )

**MEMORANDUM AND ORDER**

This matter is before the Court on Jason Gardner's petition for writ of habeas corpus under 28 U.S.C. § 2254 [#1]. Pursuant to 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Thomas C. Mummert, III, who filed his Report and Recommendation on March 3, 2006 [#17]. It is Judge Mummert's recommendation that the petition be denied and that no certificate of appealability be issued. Gardner, through counsel, timely filed his objections to the Report and Recommendation [#19]. Under 28 U.S.C. § 636(b)(1)(C), I am required to review de novo those portions of the Report and Recommendation to which Gardner objects.

I have conducted a de novo review of all matters relevant to the petition. Based on that review, I will adopt and sustain Judge Mummert's Report and Recommendations and will deny Gardner's petition. Finally, as Gardner has not

made a substantial showing of the denial of a constitutional right, I will not issue a certificate of appealability.

Accordingly,

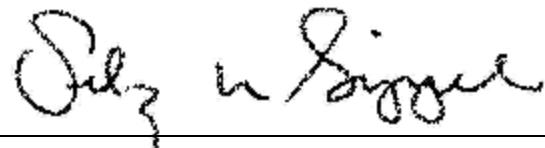
**IT IS HEREBY ORDERED** that James Purkett, Superintendent of Eastern Reception, Diagnostic and Correctional Center, be substituted for Larry Rowley as proper party respondent.

**IT IS FURTHER ORDERED** that Gardner's petition for habeas corpus under 28 U.S.C. § 2254 [#1] is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 30th Day of March, 2006.



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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE